

Environmental Protection Agency

§ 92.303

(6) Oral argument may be permitted in the discretion of the Presiding Officer and shall be reported as part of the record unless otherwise ordered by him/her.

(f)(1) The Presiding Officer shall make an initial decision which shall include written findings and conclusions and the reasons or basis therefor on all the material issues of fact, law, or discretion presented on the record. The findings, conclusions, and written decision shall be provided to the parties and made a part of the record. The initial decision shall become the decision of the Administrator without further proceedings unless there is an appeal to the Administrator or motion for review by the Administrator within 30 days of the date the initial decision was filed.

(2) On appeal from or review of the initial decision the Administrator shall have all the powers which he/she would have in making the initial decision including the discretion to require or allow briefs, oral argument, the taking of additional evidence or the remanding to the Presiding Officer for additional proceedings. The decision by the Administrator shall include written findings and conclusions and the reasons or basis therefor on all the material issues of fact, law, or discretion presented on the appeal or considered in the review.

[63 FR 18998, Apr. 16, 1998, as amended at 70 FR 40456, July 13, 2005]

EFFECTIVE DATE NOTE: At 63 FR 19053, Apr. 16, 1998, § 92.216 was added. This section contains information collection and record-keeping requirements and will not become effective until approval has been given by the Office of Management and Budget.

Subpart D—Certification Averaging, Banking, and Trading Provisions

§ 92.301 Applicability.

Locomotive engine families subject to the provisions of subpart A of this part are eligible to participate in the certification averaging, banking, and trading program described in this subpart. The provisions of this subpart apply to manufacturers and remanufacturers of new locomotives and new locomotive engines manufactured or re-

manufactured in the 1999 model year or later.

§ 92.302 Definitions.

The definitions of subpart A of this part apply to this subpart. The following definitions also apply.

Applicable standard means a standard that would have otherwise been applicable had the locomotive or locomotive engine not been certified under this subpart to an FEL different than that standard.

Broker means any entity that facilitates a trade between a buyer and seller.

Buyer means the entity that receives credits as a result of trade or transfer.

Reserved credits means credits that have been generated but have not yet been reviewed by EPA or used to demonstrate compliance under the averaging provisions of this subpart.

Seller means the entity that provides credits during a trade or transfer.

Transfer means to convey control of credits generated from an individual locomotive to the purchaser, owner or operator of the locomotive at the time of manufacture or remanufacture; or to convey control of previously generated credits from the purchaser, owner or operator of an individual locomotive to the manufacturer or remanufacturer at the time of manufacture or remanufacture.

§ 92.303 General provisions.

(a) Participation in the averaging, banking and trading program is voluntary. A manufacturer or remanufacturer may choose to involve some or all of its families in any or all aspects of the program.

(b) An engine family is eligible to participate in the certification averaging, banking, and trading program for NO_x and PM emissions if it is subject to regulation under this part with certain exceptions specified in paragraph (c) of this section. No averaging, banking and trading program is available for meeting the HC, CO, or smoke emission standards of this part.

(c) Locomotives and locomotive engines may not participate in the certification averaging, banking, and trading program if they are exported.